

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Planning, Research & Development

AGENDA DATE: Ordinance Introduction Date 2/8/05 and Public Hearing Date 2/22/05

CONTACT PERSON/PHONE: Rudy Valdez/4635

DISTRICT(S) AFFECTED: All

SUBJECT:

APPROVE an ordinance amending Title 19 (Subdivisions); Section 19.28.010 concerning extension requests to complete subdivision improvements and Section 19.28.020 required guarantees for completion of subdivision improvements.

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

No

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

Ordinance was recommended for approval by both the Development Coordinating Committee and City Plan Commission.

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD: _____

(Example: if RCA is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA: _____

CITY MANAGER: _____

DATE: _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 19 (SUBDIVISIONS) OF THE EL PASO MUNICIPAL CODE, BY AMENDING SECTIONS 19.28.010 (CONSTRUCTION OF SUBDIVISION IMPROVEMENTS) TO MODIFY LANGUAGE CONCERNING EXTENSION REQUESTS, AND BY AMENDING 19.28.020 (GUARANTEES) TO MODIFY LANGUAGE REGARDING REQUIRED SECURITY ENSURING COMPLETION OF SUBDIVISION IMPROVEMENTS WHEN REQUESTING EXTENSIONS TO COMPLETE SAME.

WHEREAS, the City of El Paso Development Coordinating Committee (DCC) has found that it is sometimes necessary to provide an additional one-year extension of time for completion of subdivision improvements;

WHEREAS, the DCC finds that it is necessary to ensure that subdivision improvements will ultimately be completed with the requirement of mandatory security in the full amount of cost for construction of required subdivision improvements when extension requests are made as is proper to protect the health, safety, and welfare of the citizens of El Paso;

WHEREAS, the City Plan Commission has recommended the amendments proposed herein; and

WHEREAS, the El Paso City Council finds that the amendments proposed herein will not adversely affect the health, safety, and welfare of the citizens of El Paso.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF EL PASO:

1. That Title 19 (Subdivisions), Section 19.28.010 is hereby deleted in its entirety and replaced as follows:

19.28.010 Construction of subdivision improvements.

A. Requirement. Upon the recording of the approved subdivision as provided in Section 19.08.100, the subdivider shall proceed with the construction of the required improvements within the area covered by the subdivision. All improvements required by these regulations shall be completely installed and constructed by the subdivider, or his

successors in title, within a maximum time period of two years from the recording of the approved subdivision, except as otherwise provided in this section. All improvements shall conform with the provisions of this title and the approved plans. Upon application by the subdivider on a form identified in Appendix S. on file in the department of planning, research and development, the city plan commission may grant up to two one-year extensions of time for completion of the required subdivision improvements. A one-year extension granted by the city plan commission shall commence on the date following the two-year expiration period, or the previously granted one-year extension. A subdivider unable to complete required improvements within the provided time plus applicable extensions shall be required to resubmit subdivision application pursuant to Title 19 as written at the time of resubmittal. The application for a one-year extension shall be submitted by the subdivider, together with a processing fee of \$150.00, on or before the expiration of time originally provided for completion of subdivision improvements, and shall include a detailed explanation as to the reasons which merit the granting of an extension. An application shall contain an addendum with a plan indicating the percentage of the remainder yet to be completed accompanied by a detailed plan for completion of the remaining improvements within the extension period. At his or her discretion, the director of the Department of Planning, Research, and Development may accept an application for a request for extension of time for completion of subdivision improvements which is no more than 60 days past due upon receipt of a penalty fee in the amount of \$1,000.00, in addition to any fee otherwise charged for a properly submitted request for extension.

B. Temporary Improvement. The subdivider shall build and pay for all costs of temporary improvements required by the city plan commission and shall maintain those temporary improvements for the period specified by the city plan commission. Prior to the construction of any temporary facility or improvement, the subdivider shall file a subdivision improvement agreement and guarantee as provided in Section 19.28.020.

C. Failure to Complete Improvement. Where required subdivision improvements are not completely installed and constructed within the two-year time period, unless otherwise

extended, and within the terms of the subdivision improvement agreement and guarantee, the subdivider shall be deemed in violation of this title and shall be subject to the penalty provisions outlined in Chapter 19.04. The city may then do any or all of the following:

1. Declare the subdivision improvement agreement and guarantee to be in default;
2. Where an additional security was required, obtain funds under the security to complete the subdivision improvements using a third party selected by the city or county, as applicable;
3. Exercise any other rights available under the law;
4. Require complete subdivision resubmission pursuant to Title 19 as it exists at such time of resubmission.

D. Exception for Sidewalk Construction.

1. Local Streets. Where sidewalks are required to be constructed on local streets within an approved subdivision pursuant to this title and Chapter 13.04, the sidewalks shall be installed as soon as reasonably possible after the first building permit is issued for each lot, or portion thereof, within the subdivision. The property owner of the lot, or portion thereof, for which a building permit has been issued shall be responsible for construction of the sidewalk. No certificates of occupancy shall be issued until the sidewalk has been constructed in accordance with the regulations of this title and the subdivision improvement design standards, and has been inspected and approved by the deputy director for building services.

2. Arterial Streets.

a. Where sidewalks are required to be constructed on arterial streets within an approved subdivision pursuant to this title and Chapter 13.04, the construction may be deferred until ordered by the City. The city plan commission may, as part of the subdivision approval, approve a deferral of the construction of sidewalks when the arterial street is designed to serve residential double-front lots, and the residential double-front lots are provided primary access through a fully improved locals street; and the arterial street for which a sidewalk deferral is to be authorized provides frontage to the rear side of the residential double-front lots, and the improvement of the arterial street is delayed due to a partial dedication of the arterial street right-of-way within the approved subdivision.

When ordered by the city, the sidewalk shall be constructed in accordance with the regulations of this title and the subdivision improvement design standards, and subject to inspection and approval by the deputy director for building services.

b. Sidewalks required on an arterial street shall be installed as soon as reasonably possible after the first building permit is issued for each lot, or portion thereof, within the subdivision; except where a sidewalk deferral was approved by the city plan commission as part of the subdivision approval. The property owner of the lot, or portion thereof, for which a building permit has been issued shall be responsible for construction of the sidewalk. No certificates of occupancy shall be issued until the sidewalk has been constructed in accordance with the regulations of this title and the subdivision improvement design standards, and has been inspected and approved by the deputy director for building services.

E. Pre-Construction Conference. A pre-construction conference shall be required prior to commencement of construction of the required subdivision improvements. The pre-construction conference shall be held with the deputy director for building services and the property owner(s), the engineer, and any authorized representative. The pre-construction conference may be waived by the deputy director for building services. (Ord. 13956 §§ 133 –136, 1999; Ord. 13111 § 1 (part), 1997)

2. That Title 19 (Subdivisions), Section 19.28.020 (Guarantees) is hereby deleted in its entirety and replaced as follows:

19.28.020 Guarantees.

A. Costs of Improvements. All improvements which the subdivider is required to make pursuant to this title, shall be made by the subdivider, at its expense, without reimbursement by the city, except as otherwise provided in this title.

B. Subdivision Improvement Agreement and Guarantee. A subdivider shall be required to sign a subdivision improvement agreement and guarantee by which the subdivider covenants to complete all of the required subdivision improvements no later than two

years following the date on which the subdivision is recorded pursuant to Section 19.08.100, or to the date of a time extension granted by the city plan commission. The subdivision improvement agreement and guarantee shall be in the form outlined in Appendix P, on file in the department of planning, research and development, and shall contain such other terms and conditions agreed to by the subdivider and the city plan commission. The agreement shall run with the land and bind all successors, heirs, and assignees of the subdivider.

C. Other Security Required & Exceptions to Security Required.

1. Other Security Required. The city plan commission shall, upon a request for extension of time for completion of the required subdivision improvements, require that a subdivider provide other forms of security to insure that the subdivision improvements are completed as required in this title. Where required, a guarantee in the amount of one hundred twenty-five percent of the remaining subdivision improvements shall be provided. The subdivider shall be responsible for providing estimated construction and cost information to the City Engineer. The City Engineer shall approve or deny the amounts proposed. Such security for the construction of the subdivision improvements shall be made payable to the mayor of the city or the county judge of the county, as applicable, in one of the following forms:

- a. Cash deposit;
- b. An irrevocable letter of credit, acceptable to and approved by the city attorney, and issued by any bank duly chartered under the laws of the state;
- c. A bond, acceptable to and approved by the city attorney or county attorney, that shall guarantee such funds to the city or county. (Ord. 13956 § 137, 1999; Ord. 13111 § 1 (part), 1997)

2. Exceptions to Security Required. Upon the determination by the city plan commission that delay was caused by a governmental entity, utility, or when the commission finds that economic hardship would result and that there is a public purpose for not requiring security.

APPROVED this ___th day of _____, 2005.

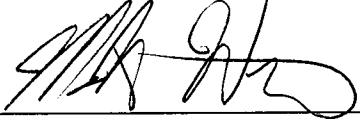
THE CITY OF EL PASO, TEXAS

ATTEST:

Joe Wardy
Mayor

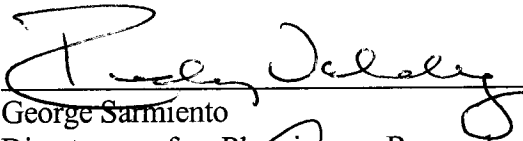
Richarda Duffy Momsen, City Clerk

APPROVED AS TO FORM:




Matt Watson
Assistant City Attorney

APPROVED AS TO CONTENT:



For George Sarmiento
Director of Planning, Research, &
Development



Rick Conner
City Engineer